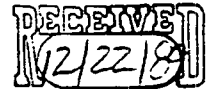


NPL-410-3-14-R7



Site:	Westlake Ld #1
ID#:	MO D079900932
Brook:	168
Other:	H
12-22-89	

0714

"WESTLAKE LANDFILL, BRIDGETON, MISSOURI"

Comments on Proposed Addition to National
Priorities List for Uncontrolled Hazardous
Waste Sites (Proposed Update No. 10)



40055881
SUPERFUND RECORDS

Submitted by:

THE STOLAR PARTNERSHIP

on behalf of
John L. May, the Roman
Catholic Archbishop
of the Archdiocese of
St. Louis

THE STOLAR PARTNERSHIP
ATTORNEYS AT LAW

THE LAMMERT BUILDING
911 WASHINGTON AVENUE
ST. LOUIS, MISSOURI 63101
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JAMES F. GUNN

H.M. STOLAR
(RETIRED 1984)

December 21, 1989

FEDERAL EXPRESS

Mr. Larry Reed, Acting Director
Hazardous Site Evaluation Division
(Attention: NPL Staff)
Office of Emergency and
Remedial Response (OS-230)
United States Environmental Protection Agency
401 M Street, N.W.
Washington, D.C. 20460

Re: Comments on Proposed Addition of "Westlake
Landfill, Bridgeton, Missouri" to National
Priorities List for Uncontrolled Hazardous
Waste Sites (Proposed Update No. 10)

Dear Mr. Reed:

These comments are submitted on behalf of John L. May, the Roman Catholic Archbishop of the Archdiocese of St. Louis, and Rock Road Industries, Inc., a Missouri corporation. The Archdiocese of St. Louis, along with other not-for-profit organizations, were the beneficiaries of a charitable bequest under a will which resulted in its ownership of (a) an interest in real estate located within the site proposed to be placed on the National Priorities List by reason of the existence thereon (prior to the bequest) of radioactive waste contaminants, and (b) a majority shareholder interest in Rock Road Industries, Inc., an entity which also owns an interest in real estate located within the proposed site. The Archdiocese of St. Louis, therefore, together with two other charities, has a substantial economic interest in the subject site. Neither the Archdiocese of St. Louis -- nor any of the other charity beneficiaries -- knew of the presence of radioactive contamination at the site at the time of acceptance of the bequest.

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The site designated by the EPA as "Westlake Landfill, Bridgeton, Missouri" was proposed on October 26, 1989 to be added to the National Priorities List ("NPL") for Uncontrolled Hazardous Waste Sites (Proposed Update No. 10). The Hazard Ranking System ("HRS") evaluation performed for the site analyzed the human or environmental risks presented by the potential for exposure to radioactive materials through ground water and surface routes. The HRS score for the site as computed by the EPA was 29.85.

Radiological contamination is the sole reason for the proposed NPL listing of "Westlake Landfill, Bridgeton, Missouri." See EPA HRS Cover Sheet. Radiological contamination at the site has been identified by the parties commissioned to perform site studies for the Nuclear Regulatory Commission ("NRC") in two distinct areas of the site. This letter constitutes formal written comments regarding the proposed listing as solicited by the October 26, 1989 Federal Register notice (54 Fed. Reg. 43778).

I. Purpose of Comments

These comments are submitted for the following purposes:

1. To identify the ownership of the site which will enable a more accurate and equitable name for the site.
2. To emphasize the genesis of the radiological contamination at the site.
3. To suggest a revised HRS score which more accurately reflects the site's relative placement with regard to the nation's priority listings.
4. To provide an evaluation of the potential for risk to human health or the environment posed by the site based upon findings of studies commissioned by the NRC which demonstrate that the site does not present an imminent and substantial danger to human health or the environment.

II. Summary

1. Radioactive contaminants, generated by the United States government during World War II, and later owned by the Cotter Corporation of Canon City, Colorado, were transported

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and dumped, without the knowledge or consent of the site owners or operators, in two areas of the former West Lake Landfill. The contaminated parcels, designated Area 1 (3 acres) and Area 2 (13 acres) are primarily owned by religious charitable institutions and a corporate entity, Rock Road Industries, Inc.

2. The HRS evaluation performed by the EPA on February 8, 1989, resulted in a score of 29.85. High scores in "target" areas, however, such as Ground Water Use and Distance to Nearest Well, rest upon minimal evidence of qualifying usage. The result is an HRS score which is not representative of the site vicinity's actual low probability of harmful occurrence or damage. Suggested revisions to the HRS scoring would reduce the total score to a revised score which is well below the standards for inclusion on the NPL.

3. The site does not pose an imminent or substantial danger to human health or the environment. Studies commissioned or authored by the NRC, as cited herein, have consistently determined that contaminant migration is minimal, and current exposure levels do not present an immediate health hazard.

4. Nearby businesses which utilize the name "West Lake" -- but which do not operate any business on the contaminated site -- are concerned about public confusion over the site's name designation. Because no entity exists or is doing business as "Westlake Landfill," it is suggested that an alternative site designation of "Rock Road Industries, Bridgeton, Missouri" be adopted.

III. Ownership and Name of Site

The two areas of radioactive contamination (Areas 1 and 2) assessed by the HRS are owned by (a) John L. May, the Roman Catholic Archbishop of the Archdiocese of St. Louis (herein the "Archdiocese"), The Shrine of St. Jude, an Illinois not-for-profit corporation (herein the "Shrine"), and The Society for the Propagation of the Faith of the Archdiocese, a Missouri not-for-profit corporation (herein the "Society"), (b) Rock Road Industries, Inc., a Missouri corporation (the shareholders of which are the Archdiocese, the Shrine and the Society) and (c) Walter Trump, individually and as Trustee for Dorothy Trump, his sister, and Dorothy Trump, individually and as Trustee for her brother, Walter Trump.

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West Lake Quarry and Material Company, West Lake Ready Mix Co., and Laidlaw Waste Systems (Bridgeton) Inc. (formerly West Lake Landfill, Inc.) are Missouri corporations which operate separate businesses on property adjacent to or in close proximity to Areas 1 and 2. HOWEVER, MOST IMPORTANTLY, NEITHER WEST LAKE QUARRY AND MATERIAL COMPANY, NOR WEST LAKE READY MIX CO. HAS EVER OWNED ANY PORTION OF AREA 1 OR 2. NO ENTITY WITH THE NAME "WESTLAKE LANDFILL" PRESENTLY EXISTS. IT WOULD BE MORE APPROPRIATE AND ACCURATE TO DESIGNATE THE SITE AS "ROCK ROAD INDUSTRIES, BRIDGETON, MISSOURI."

III. History and Overview

The two areas of radiological contamination scored in the HRS were created in 1973 when soil contaminated with radioactive material was surreptitiously placed there. The radioactive material originated from uranium-ore-processing residues which had been stored at Lambert Airport by the United States Atomic Energy Commission ("AEC"), and had been sold in 1966 to the Continental Mining and Milling Company of Chicago, Illinois. In 1966, the material was moved from the Airport to nearby 9200 Latty Avenue, Hazelwood, Missouri. In 1967, the Commercial Discount Corporation of Chicago took possession of the residues for removal of moisture and shipment to the Cotter Corporation facilities in Canon City, Colorado. In 1969, the remaining material was sold to the Cotter Corporation. In the following four years, most of the residues were shipped to Canon City.

In 1974, Region III representatives of the NRC's Office of Inspection and Enforcement visited the Cotter Corporation's Latty Avenue site to check on the progress of the decommissioning activities being performed there. This inspection disclosed that in 1973 Cotter Corporation had disposed of approximately 8,700 tons of leached barium sulfate residues mixed with 39,000 tons of topsoil at a local landfill.

By letter dated June 2, 1976, the Missouri Department of Natural Resources ("MDNR") forwarded newspaper articles to the NRC Region III Office which alleged that only 9,000 tons of waste had been moved from the Latty Avenue site (rather than 40,000 tons) and that the 9,000 tons were moved to the West Lake Landfill (rather than to the St. Louis Landfill No. 1). Region III personnel investigated the allegations and found that 43,000 tons of waste and soil had been removed from the Latty Avenue site and had been dumped at a construction

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landfill site in Bridgeton then operated by a corporation called West Lake Landfill, Inc. Disposal in the West Lake Landfill was not authorized by either (a) the NRC (in fact, it was contrary to the disposal locations indicated in the NRC records), (b) MDNR (state officials were not notified of this disposal and the landfill was not regulated by the state at the time), or (c) West Lake Landfill, Inc. (it was only later that West Lake Landfill's officials became aware of the unauthorized disposition). Of course, none of the charities -- which would not own an interest in the land until many years later -- nor Rock Rock Industries, Inc. -- which was not even in existence at the time -- authorized, or could have authorized, the dumping of the contaminated material.

In 1978, an aerial radiological survey revealed two areas within the landfill where the gamma radiation levels indicated radioactive material had been deposited. A more extensive radiological survey of the site was initiated in 1980-81 by the Radiation Management Corporation ("RMC") of Chicago, Illinois under contract to the NRC. The findings were published in May, 1982 in NUREG/CR-2722, "Radiological Survey of the West Lake Landfill, St. Louis County, Missouri."

In 1983, the NRC through Oak Ridge Associated Universities ("ORAU") contracted with the University of Missouri-Columbia ("UMC") Department of Civil Engineering to conduct an engineering evaluation of the site and propose possible remedial measures for dealing with the radioactive waste at the site. In 1986, ORAU sampled water from wells on and close to the site to determine if the radioactive material had migrated into the ground water.

The NRC reports issued in June, 1988 and July, 1989 are based upon these previous investigations and samplings.

The conclusions of these reports are that the radioactive contaminants present at the site are located in two areas. The southern area of radioactive contamination (Area 1) contains a relatively minor fraction of the debris covering approximately three acres with most of the contaminated soil buried under no less than three feet of clean soil and sanitary fill. The northern area (Area 2) comprises about thirteen acres. The NRC reports inaccurately indicate that the radioactive debris forms a layer two to fifteen feet thick and is exposed in a small

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area on the landfill surface along the berm on the northwest face of the Landfill.*

IV. HRS Scoring

The EPA assigned high HRS scores in "Target" categories for the site in the February 8, 1989 scoring. Such scoring would only be appropriate where a substantial number of individuals ingest water from wells in close proximity to the site of contamination. This characterization is an inaccurate portrait of the true site conditions, which will distort its priority ranking, and misinform the public.

The site is surrounded by a rural, unpopulated area. The MDNR memorandum relied upon by the EPA scorer found only a single well within a mile radius of the contaminated site, with no evidence that the well was used for drinking purposes. (Reference 20, HRS Docket). For the three mile surrounding area, only seven and one-half percent (7-1/2%) of the HRS "population" served by ground water are individuals, with the remainder derived from usable-cropland equivalence calculations (1-1/2 "people" per irrigated acre).

The NRC stated in its July, 1989 Report, "it is believed that only one private well (Figure 2.9) in the vicinity of the the landfill is used as a drinking water supply. This well is 2.2 km (1.4 miles) N 35° W of the former Butler-type Building located on the West Lake Landfill. In 1981, analysis showed water in this well to be fairly hard (natural origins) but otherwise of good quality (Long, 1981)."

These studies reflect the minimal use of ground water in the immediate site vicinity: only a single well is identified within a mile of the contaminant, and the closest drinking water use cited is at 1.4 miles. Yet, the HRS scorer assigned the maximum value of "3" in the Target category of "Ground Water Use." This rating does not fairly reflect the facts cited in the studies.

* Remedial activities were performed in 1986 to cover more adequately the contaminant in Area 1. The information cited in the reports to the contrary is inaccurate, as is more fully explained at page 10 of this comment letter, and in the Affidavit of William Canney dated December 21, 1989, attached hereto as Exhibit A.

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Further investigation has revealed that MDNR data regarding public water availability north of the contaminant location was not accurate. Mr. John Madras of the MDNR stated in a June 6, 1989 telephone record (Reference 14, HRS Docket) that Mr. David Pruitt of St. Louis County Water Co. confirmed the unavailability of public water service north of Route 115. In the Statement attached hereto as Exhibit B, Mr. Pruitt denies the accuracy of this MDNR memorandum. Mr. Pruitt states that public water service is available in many areas north of Route 115 (St. Charles Rock Road). With regard to the only well identified by MDNR as lying within a mile of the contaminant, that of Wilfred Hahn (Reference 20, HRS Docket), Mr. Pruitt states that public water mains run in close proximity to this site, providing availability of a public water supply in this area.

EPA's discretion to select a reasonable regulatory interpretation is well-established; however, accuracy in development of the NPL is best promoted by HRS scoring which realistically describes site conditions. Most importantly, simple fairness dictates the application of reasonable standards. A maximum Ground Water Use value of "3," based only upon minimal usage and support, results in a distorted rating score.

The Ground Water Use value appropriate for the site vicinity taken as a whole, is at most "2," the second highest ranking. Utilizing this value would reduce the total HRS score to 26.36, thereby reducing the scoring for the site below the NPL listing guidelines, and providing an accurate evaluation of this site's low threat to health and the environment.

In another exaggerated valuation, the HRS scorer selected a "distance to nearest well" value of "3" ("between 2,001 feet and one mile"). Yet, only a single well was detected by MDNR within a mile of the site, and no evidence was cited of its use for drinking purposes. (Reference 20, HRS Docket). Moreover, as stated above, municipal water from St. Louis County Water Co. is available for this area. (Exhibit B). The closest well used for drinking purposes identified in the studies is 1.4 miles from the site. The value which accurately characterizes the proximity of well water use causing potential environmental harm is therefore "2" ("one to two miles"). Use of this number reduces the HRS overall score to 25.20, again reducing the scoring for the site well below the NPL listing guidelines.

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The primary purpose of the NPL, which is to prioritize fairly the nation's environmental threats, is thwarted where exaggerated evaluations obscure realistic assessments. Normal fluctuations found within an assessment category are compounded where, as in this case, excessively high scoring occurs in multiple areas.

If values for both Ground Water Use and Distance to Nearest Well are reduced to the more accurate values suggested above, the HRS score for the site falls to 20.58. A score of 20.58 is far closer to the site's actual priority level than EPA's assigned HRS score of 29.85.

EPA is requested to reduce the HRS score as suggested so that (a) national environmental resources may be better directed toward true priority sites, and (b) the public is not misled as to the actual conditions at this site.

V. Potential for Risk to Human Health and the Environment

A review of the findings of the NRC studies of the site conducted over a several year period yields two strong conclusions: (a) the contaminants are essentially site stable, with low migration likelihood; and (b) the contaminants in their present state do not pose an imminent or substantial threat to human health or the environment.

The following is a synthesis of the findings and conclusions contained in NRC-sponsored or NRC-authored studies which support a determination that the site poses minimal risk to health and the environment.

(a) Contaminants are Essentially Site Stable. In a report prepared for the NRC in 1982 by RMC entitled "Radiological Survey of the West Lake Landfill, St. Louis County, Missouri," the authors' conclusions are clear:

There is no indication that significant quantities of contaminants are moving off-site at this time. [NRC 1982 Radiological Survey, Abstract.]

In the body of its report, RMC cited MDNR's 1980 Groundwater Investigation to conclude the existence of "little or no surface or sub-surface movement of materials from the

Mr. Larry Reed
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site." (NRC 1982 Radiological Survey, page 4). No off-site water samples exceeded existing Ra-226 EPA standards:

None of the sample alpha activities exceeded the MPC for Ra-226 (the most restrictive nuclide present) in water for unrestricted areas. Only one sample exceeded the EPA gross alpha activity guidelines for drinking water and that was a sample of standing water near the Shuman building. . . . None of the off-site samples exceeded either EPA standard. [NRC 1982 Radiological Survey, page 16.]

Vegetation samples from farm areas of likely site run-off were also analyzed: no elevated activities were found. (*Id.*, page 19). The report goes on to state:

At no time has radioactivity in off-site water samples risen above any applicable guidelines. These results indicate that the buried ore residues are probably not soluble and are not moving off-site via ground water. . . . The absence of significant contamination in the leachate liquid or sludge is consistent with the implication that the buried material is not moving through the landfill. [NRC 1982 Radiological Survey, page 22.]

The July, 1989 report prepared by the NRC, entitled "Site Characterization and Remedial Action Concepts for the West Lake Landfill," continued to rely on the 1982 findings, in the absence of any significant contrary data produced thereafter. (NRC 1989 Site Characterization, page 3-6.) This report also noted that the most proximate drinking water well, identified as 1.4 miles from the contaminant, was sampled and analyzed in 1981, and was found to be free of site contaminants. (*Id.* at page 2-8). The hydro-geologic conditions were also described:

Since the limestone is fairly impervious, and groundwater flows in most areas from the bedrock into the alluvium, contamination of water in the bedrock aquifer does not appear likely. [NRC 1989 Site Characterization, page 2-7.]

(b) Contaminants Do Not Pose an Imminent or Substantial Danger. Both the 1982 and 1989 NRC reports contain assessments that the site contaminants constitute no present or imminent threat to human health or the environment. The

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Summary of the 1989 report unequivocally states that health concerns are not short-term, imminent, or immediate factors:

Although the contamination does not present an immediate health hazard, authorities have been concerned about whether this material poses a long-term health hazard to workers and residents of the area and what, if any, remedial action is necessary. [NRC 1989 Site Characterization, page ix.]

Contaminant risk will only grow slowly over a period of decades and centuries:

Assuming the ratio of activities of 100:1 used above, the Ra-226 activity will increase by a factor of five over the next 100 years, by a factor of nine 200 years from now, and by a factor of thirty-five 1000 years from now. [NRC 1989 Site Characterization, page 4-1.]

In addition, particulate air monitoring revealed little basis for concern:

Particulate air samples established indicated the presence of Rn-222 and Rn-219 daughters near the locations of surface deposits. However, concentrations are very low, and do not exceed allowable levels for unrestricted areas, except in one location. In general, cover of a few feet of fill reduces airborne concentrations to near background levels. [NRC 1982 Radiological Survey, page 22.]

The 1989 report noted that "the highest levels [of air particulate] were detected in November 1980, near and inside the Butler-type building which has since been removed." (page 3-5).

Other remediation activities have further stabilized the site and further reduced any threat of surface contaminant release. The portions of Area 2 cited on page 12 of the 1982 report, including the berm near the northwest edge of the site were addressed by West Lake Landfill, Inc. in 1986 in accordance with the guidance of ORAU, the NRC contractor. See Affidavit of William Canney dated December 21, 1989, attached hereto as Exhibit A.

THE STOLAR PARTNERSHIP

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CONCLUSION

Radioactive contamination, originating from the government's World War II weapons development program was placed in two confined areas, without the knowledge or consent of the areas' owners or operators. These areas, most appropriately called the "Rock Road Industries, Bridgeton, Missouri" site, have received an HRS score which constitutes an inflated assessment of the probability of a harmful occurrence and the magnitude of the potential damage. Studies commissioned or authored by the NRC support the conclusions that the site does not pose an imminent or substantial risk of danger to human health or the environment.

For the reasons stated herein, the proposed HRS scoring should be recomputed to reflect accurately the state of conditions on the site. Such recomputation will result in the removal of this proposed site -- which in any event should have its name changed -- from inclusion on the NPL.

Respectfully submitted,

THE STOLAR PARTNERSHIP

By: 

James F. Gunn, on behalf of
John L. May, the Roman
Catholic Archbishop of the
Archdiocese of St. Louis

JFG:mc

Enclosures

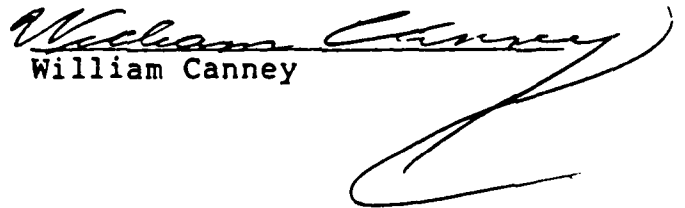
Exhibits

- A. Affidavit of William Canney, dated December 21, 1989.
- B. Statement of David Pruitt, St. Louis County Water Company, dated December 21, 1989.

Affidavit of William Canney

My name is William Canney. From approximately 1977 through 1988, I was employed by Westlake Landfill, Inc., in several capacities including that of Environmental Engineer.

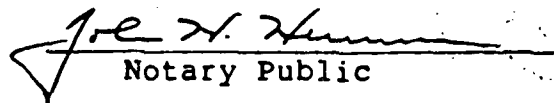
In approximately 1986, under the guidance of the Nuclear Regulatory Commission's contractor, Oak Ridge Associated Universities, I supervised the deposit of approximately 420,000 pounds of clean fill dirt along the berm on the northwest face of the landfill. This location is referred to as Area 2 in the NRC reports.


William Canney

State of Missouri)
County of St. Louis)

Subscribed and sworn to before me this 21st day of December, 1989.

My Commission Expires May 2, 1992


Notary Public



ST. LOUIS COUNTY WATER CO. • 535 North New Ballas Road • St. Louis, Mo. 63141


(314) 991-3404
FAX 432-7824

STATEMENT OF DAVID PRUITT

My name is David Pruitt. I am employed by the St. Louis County Water Company. My job title is Engineering Technician.

I have reviewed the attached statement by John Madras, an employee of the Missouri Department of Natural Resources, concerning our telephone conversation of June 6, 1989, regarding the extent of St. Louis County Water Company service in the area north of St. Charles Rock Road (Rt. 115). Mr. Madras' statement does not present an accurate description of public water availability in this area.

I have also reviewed the attached Missouri Department of Natural Resources memorandum and map describing the location of the well belonging to Wilfred Hahn. Although the precise location of this well is not indicated, St. Louis County Water Company water main lines are located throughout this area. I have reviewed the official St. Louis County Water Company documentation showing water main locations, and in my judgment public water service is available in the area in which the Wilfred Hahn well appears to be located.

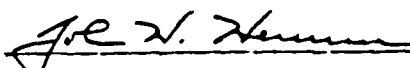


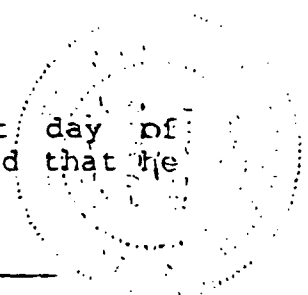
David Pruitt

State of Missouri)
County of St. Louis)

Before me, a notary public, appeared this 21st day of December, 1989, Mr. David Pruitt, known to me, and stated that he executed the foregoing as his free act and deed.

My Commission Expires May 2, 1992





DEPARTMENT OF NATURAL RESOURCES
Division of Environmental Quality

TELEPHONE OR CONFERENCE RECORD

File Westlake Quarry LandfillDate June 6, 1989

TELEPHONE

CONFERENCE

Incoming ()

Field ()

Outgoing (XX)

Office ()

SUBJECT Extent of St. Louis County Water Co. Service

PERSONS INVOLVED

Name

Representing

Mr. Dave PruittSt. Louis County Water Co.John MadrasMDNR

SUMMARY OF CONVERSATION

Mr. Pruitt and I discussed the extent of the public water supply availability in the vicinity of Westlake landfill. He stated that the water company served the Earth City area (which is south of Route 115) and had one main that parallel Route 115, but provided no service north of that highway on the Missouri River floodplain. The water company does provide service to residences in the upland east of the floodplain (in the vicinity of Interstate 270). He indicated that maps of water mains could be reviewed in his office.

ACTION TAKEN

FINAL RESULTS

John Madras
John Madras .
Environmental Specialist

DEPARTMENT OF NATURAL RESOURCES
Division of Environmental Quality

TELEPHONE OR CONFERENCE RECORD

File Westlake Landfill, St. Louis Co. Date July 26, 1989

TELEPHONE

CONFERENCE

Incoming (XX)

Field ()

Outgoing ()

Office ()

SUBJECT Well survey in vicinity of landfill

PERSONS INVOLVED

Name

Representing

Mike StruckhoffMDNR-SLROJohn MadrasMDNR-WMP

SUMMARY OF CONVERSATION

Mike stated that he had visited the property of Wilfred Hahn north of Westlake Quarry Landfill. The property is located north of Route 115 one half mile northwest of Taussing Road and one quarter mile north on the side road. The property has a trailer and greenhouse. The well supplies water to the greenhouse for raising produce and is available for other purposes as well, but it could not be determined if it is used for drinking water. Irrigation equipment was also present on-site. Corn is raised on the land surrounding the trailer. Domestic animals (cats and dogs) were also present. No residents were present at the time of the site visit.

ACTION TAKEN

FINAL RESULTS

John Madras
John Madras

Environmental Specialist

